

**Fremont County Planning
& Zoning Public Hearing Minutes
September 22, 2008
6:00 pm
Pond's Lodge, Island Park**

The Fremont County Planning & Zoning Commission met in a public hearing on September 22, 2008. They met at Pond's Lodge in Island Park, Id. **Members in attendance were:** Kirk Mackert (Chairman), John Nedrow (Vice-Chairman), Ron Kynaston, Glen Pond, Joette Lookabaugh, Larry Singleton, Cindy Miller, Steve Pinther, and Vance Derricott.

Staff and others present: Kurt Hibbert (Administrator), Molly Knox (Administrative Assistant), Jon Laux (Building Official), and Letta Laux (P&Z Secretary).

I. Welcome

Mr. Mackert called the meeting to order at 6:00 pm. He acknowledged Ron Kynaston's service on the P&Z board. He asked if all the public notices had been posted, and if there was any conflict of interest.

Mr. Hibbert stated all the notices have been posted. There was no conflict of interest.

II. Fremont County Commercial Rental Overlay and Commercial Registration Program

Mr. Hibbert thanked everyone for coming and stated this is the third draft for the cabin registration program. He explained the process for adopting the new ordinance into Fremont County Code. He gave an overview of the registration program and the details for registering rental cabins.

Mr. Pinther stated right now there is not a cabin rental overlay.

Mr. Hibbert stated the document shows that. The zoning will be done at the time they do the zoning map.

Mr. Pinther asked if this document specifies the overlays. He asked if it is only for Island Park.

Mr. Hibbert they are designated on an individual basis as per the application process, and will work with the zoning process. Any parcel of land in Fremont County could apply for this designation.

Mr. Mackert stated for clarification the owners of the cabins will have to apply for an application and they will have to come before the P&Z commission. There will be a normal process for approval.

Mr. Hibbert discussed some of the input he has received. He discussed the fees that are in the document. He explained how the fees were figured out based on a fixed budget for what this will cost to implement divided by the number of known rental cabins. That number is 87. The fees will be reduced after the total number of rentals is figured out as there are many more than just 87 rentals in the county.

Mr. Pinther stated the wording on the pay schedule was odd.

Mr. Hibbert stated the intent is not to tie the document to the fee schedule.

Mr. Hibbert stated there was discussion on section 15.a.1. (Occupancy Building and Site Standards) There is language that talks about complying with section 504 and it is the staff's recommendation to strike that language.

Mr. Pinther asked about the life safety requirements and the suggested recommendations.

Mr. Hibbert stated there is a plethora of life safety code issues and if they were to enforce all those issues from the code and regulations, it would make it impossible for many of these rentals to remain in business. It is not in the county's interest to make that part of this document. They want to have the basic life safety issues and the nuisance issues covered.

Mr. Pinther stated they overlooked some of the essentials for life safety.

Mr. Hibbert stated they did not overlook the issues; they are still law. They wanted to get basic life safety issues applicable to this document and still make sure it is attainable.

Mr. Pinther asked what was taken out.

Mr. Hibbert stated they took out the sewer inspection, the insurance requirement, and he also omitted the sales tax. There are many issues that the document does not address because it was not the intent of the county.

Mr. Mackert questioned the revocation of permits and also how complaints are handled.

Mr. Hibbert stated a person would need to document a written complaint. If they got a written complaint they would meet with the owner. Public education and respect of the neighbors is the main purpose of this document. They should talk with the property owners before they file a complaint with the county and try to mitigate any issues privately.

Mr. Mackert asked about any penalties and what would happen if the owner chooses not to get their cabin registered.

Mr. Hibbert stated his position on code enforcement is that it should be 99% public education and 1% penalty. He explained the penalties and that it would be a typical misdemeanor. He also stated that he needs to read into the record several written letters the county has received in regard to this public hearing.

Mr. Mackert asked the public to be specific to the issue at hand and stated his appreciated the input from the public so they can make a wise decision. They want to listen to the public as individuals.

Keith Smith 4787 Birch Island Park, Id (Aspen Ridge Subdivision) questioned the purpose of this. This language is not clear and he would like to know what has caused this to come about. Why this is this ordinance a good idea.

Jeff Scott 3514 Killdeer Ct. Island Park, Id (South Shore Centennial Subdivision) stated his original purpose for speaking was anti-government. He has changed his mind since listening to Mr. Hibbert. He does not disagree that there is a need for something like this. He is one of the 87 known rentals. He pays all the required taxes. We have to have a little help to live part time in Island Park. He wants to make sure that they do provide a needed service for Island Park. Most of his rentals are families that want to stay together in one place. If they make this too difficult they will take away a privilege to the families that visit they will also take away the money from the county. He does not have a problem with most of the document. It is frustrating to him that there are only 87 known rentals as he pays his fair dues and other cabin owners should as well. He has his own frustrations with getting people to be courteous not only with the renters, but also the neighbors that live there year-round. The fees are a bit of a concern as to what they will cost. He feels it should be fair and that everyone does pay their fair share. He is also wondering why they will have to be inspected every year. He asked if the fee for the yearly inspection was included in that fee.

Mr. Hibbert stated yes, it is included.

Mr. Jeff Scott stated that this document is a tremendous improvement from the one presented a year ago.

Larry Johnson 4515 JM Loop W Island Park, Id (Stonegate Subdivision) stated they built in Fremont County because it is a zoned county and they should have their personal property rights upheld. The county has failed to enforce the zoning laws and rentals have been a problem mostly in Island Park and the problems have just recently trickled down to the rest of the county. His concern is for enforcement of this ordinance. He wants there to be enforcement in place. Any thing less than this ordinance will be unacceptable to the rest of the property owners. He thanked the P&Z for their work.

David Rensch 4119 Huckleberry LN Island Park, ID stated he spoke last September to the BOCC about this issue. There are cabins advertized as corporate retreats. He has wondered why they allow them on residential property. How will the county identify these on a map? It is meaningless to have residential property designated when there is commercial use for these rental cabins that are classified in residential areas. The buyer will need to beware when buying residential homes in cabin. He commends the county for trying to address life safety issues, but the concern he has as a residential cabin owner is that the county is willing to abdicate the responsibility to uphold land use codes. With this ordinance the county is capitulating to those cabin owners who have illegally converted their single family property. He pays for insurance to protect all his guests. The county administrator has said that these short term cabin rentals are in violation of land use ordinances. But now, they are looking to accommodate the violators. He stated the county wants to include these illegal uses through compliance. The actions of the county through this ordinance are irrational; it is irrational to legalize admitted illegal activity. They are trying to legitimize the illegal use and they want to appease the neighbors by allowing them to complain. What will those complaints do? This proposal clearly benefits only one side. He told the BOCC last year no matter what they decide to do, please enforce it.

Thomas Nubbel 4026 Tygee LN, Island Park stated it took them 6 months to get legitimate license to rent and he has paid all the appropriate rental fees and taxes. They have since had thousands of people visiting. He knew he had to have insurance to protect his guests. Jon Laux, the building official also had him comply with the fire marshal and had them inspect their cabin. This was a lot of work but they did it because it was the right thing to do because they are serving the public. It is unfair competition that these other cabins do not comply with the rules like he had to. They all had to comply (his cabin and other lodges and hotels) and the cabin rental people should as well. He can understand that the residents of these subdivisions get frustrated with the tourists. They have a real problem. He is in favor of the cabin rental registration. The first draft was a farce. The only problem he has with the document is that they allow two years for the cabin to comply and that is too long to let them remain in business incompliant. He was not allowed to rent any of his rooms until he was fully compliant, and that took him 6 months.

Marilyn Glands 4771 Elk Dr, Island Park, ID stated the rental property is a definite problem, but the majority of the cabin owners do not rent their homes. Short term rentals are causing a major concern and the proposed rules and regulations have definite merit especially referring to the site requirements and additional permitting. They need to get some control on the burden of the sewer systems and the private wells as well as for the lack of private parking, cars parked on lawns, and the number of renters that occupy a home, and the traffic, noise, littering, and lack of respect with the renters. Security is also a big concern as there is no guarantee of the type of people there are in their neighborhoods. The brokers, realtors, and property owners have said that these renters bring a lot of money into the county. It is true that these renters bring a lot of money into the county but it is the brokers, realtors, and owners that receive the lion's share of the money and there is a small trickle down effect for the benefit of the rest of the county.

There would be no problem with a big lodge coming in to house all the tourists, but why would an investor come and put in a large motel when there are all these rentals. Island Park is growing very fast and they need some control before it is too late. Put the residential areas back into residential use.

Marla Payne 3526 Bills Island Loop Island Park, Id stated she has been a full time resident for 10 years and owns Outback Realty. They do sell cabins to those who want to rent them out. She has done a study and there are at least 250 rental cabins and are rented for 90 days per year costing an average of \$250 per night that puts around 4 million dollars into the local community. They should not turn that kind of business away. There is a need for some type of regulation. Most managed properties are regulated. Most rental agencies will not take properties that do not meet safety standards. Most people who own property in Island Park do not own slums. It is not just renters that damage the property it is the owners as well. This document still needs a lot of tweaking. The annual fee is too high and will shut a lot of them down.

Rod Hughes 4220 grand view, Island Park stated that he rented in Island Park for a number of years before they purchased. They never wanted the hotel experience. There are a lot of signs that promote Island Park as a recreational area. You will have atvs, snowmobiles, hunters, and fishermen in recreational areas. He knew that was the environment that he would be in. He wanted to build in the village because of the close proximity of the time shares and the other amenities the association has there. He never perceived this as a problem before. When he came as a rental, they were always in a position of being safe. It is a bit irresponsible to compare the single family dwellings with the motel market. They want to rent to the same families every year. It is an irreplaceable opportunity. If more restrictions are placed on people like him it will cause them to exit the area as a place to do business. All he wants to do is to cover the cost of owning the cabin. The average rental time is for 90-120 days per year. The county could not recover the amount of money that would be lost as property values go down and businesses close due to lack of the vacationers. He does have empathy for the full time residents, but this place is advertised as a recreational area. He understands Mr. Smith's question and also wonders why we are doing this ordinance in the first place. Rentals going away are not going to change the fact that families come up here to recreate. You have to expect that when you move into a recreational area.

Greg Williams 3518 Ponca Dr. (Shotgun) Island Park, Id stated he owns recreational rental property in other states as well as Island Park, and in other areas he is required to have biannual inspections, yearly is better. He likes the ordinance and the plan as there is the need for one. He does have a question on the fees. In other areas they charge an inspection fee and then they just charge a hotel tax. That keeps it fairer as they can pass the tax onto the renter. He looked up information for renter's tax and the difference in size of the rentals should determine the size of the fee. The plan requires a Class II permit and those are difficult to get in this county. He would recommend changing that.

Barry Eldridge Ogden UT stated he is a hotel owner in Utah and understands section 504 of the code very well and when we built our cabins in Island Park we did it with the

intentions of using it as a rental unit. We understand why it is needed to have a document such as this. They have all the proper insurances, and fire protection and the biggest problem he has is that everyone needs to be on the same playing field. If they are going to be inspected every year and have to follow the rules then these other lodges and rentals need to as well. We provide an opportunity for corporate retreats, and if they are going to be charged fees, those other rental owners should have to pay fees as well. Our facilities alone generate \$100,000 a year in renter's fees and that translates to the \$700,000 spent in the local economy. It is important to try to pacify and make everyone comfortable with this situation. They do feel a need for this document.

Kevin Stevens 1438 Potpourri Ashton, Id stated cabin rentals do need to be regulated by the people through HOAs and CC&Rs and not the government. He is one of the rental cabins that pays property and rental taxes. Taxes would go up with this plan. We are the only county in the state that is considering this type of regulations according to Skip Hurt. At the last commissioner meeting no one wanted the cabin registry program and yet here they have this document. He would take cabin renters over most of the neighbors, and he has had no damage or complaints. If these cabins end up on the market because owners can not afford them, what will that do to the market values?

Laurie Augustine 4146 Huckleberry Lane, Island Park, Id stated she is a year-round resident of Island Park and she is also the owner of a cabin rental. She has never seen what this ordinance is expected to accomplish. Bed and Breakfast should also have to follow these regulations. This ordinance should include any future bed and breakfast. She would like to see a form for the fee schedule before this ordinance is past. What is the purpose of the annual fee, and does this perform like a business license? Should there be an annual renewal? Her other statements were written and are in the records in the planning and building department and can be viewed in full there.

Kirk Davis Huckleberry Lane, Island Park, Id stated he does not rented their cabin through their website and no corporate entity has ever rented their cabin. Government regulations are running amuck and anytime government gets too involved the only outcome are more problems. He really appreciates the building inspectors that make sure everyone is on the same level. However, if they have another inspector that comes into inspect a cabin for rental regulations and says that all these things need to be changed or they will loose the opportunity to rent their cabin, that is wrong and no one should be able to dictate what a home owner can do with their property. The only way they can afford to live in Island Park is to rent out the cabin. They should have their property rights upheld unless it is infringing on the rights of other people. I regulate who is going to be on my property. His family used all the cabins and he had to control his own family and tell them to keep it down. Our cabin does not sleep 30. He does not agree with the requirement for exit signs, as no one likes to have an exit sign where they are sleeping. He appreciates the time they have spent and what they do for the community of a service, but keep the regulations out. There is no reason the county should regulate these homes.

Rebecca Burgner 3194 Grandview Island Park, ID stated their rental cabin is in Mack's Inn and sleeps 30. They came here 5 years ago for a family reunion and bought their

rental cabin. They are providing a great service for people. She does agree that there needs to be some regulations. She agrees with the Supreme Court that this does not need to have a commercial overlay. She has done a lot of research on other places that have this type of issue and they do not have this type of ordinance; what they do have is a short term rental permit. So many supreme courts have said that the short term rental of a residential home is a residential activity and is not a commercial activity. They are not breaking any rules or laws because there are no commercial activities in their homes and that is why they are residential. They have lists of city after city that offers short term license fees. The \$1,000 fee is discriminatory. No other place charge a fee based on the size of the place. The real problem is the noise levels and the ordinance does not address that. Homes are not the problem, the atvs and other recreational vehicles are. The renters are very responsible and they always get their deposit back. Why are the fees more than building permits? There should be a flat fee only. The IRC does not have any restrictions on occupancy and the residential homes conform to the IRC not the IBC. Tourism is the #1 source of income in Island Park as per the county website. Do bed and breakfast's have to pay fees? The occupancy level is restrictive as are the exit signs. The noise issue can be solved with the enforcement of the county's noise ordinance. Can that be enforced?

Deborah Walgren 4194 Grand View Island Park, Id. Stated almost every city has some sort of rental regulation and most of them issue short term rental permits. One thing that most of them do is that all of the neighbors need to be given the property owner's name and phone number and they should be required to respond within 2 hours and remedy the problem within 24 hours. There should have a good neighbor guideline which should be posted where the renters can read it clearly and see how they are to behave. This might help with the vacation renter's noise levels.

Bret Magelby 1301 E 17th St. Idaho Falls, Id spoke on behalf of the Idaho Association of Realtors. He submitted a copy of his comments for the public record. He would recommend that the commission evaluated the true effect this will have on the home values. It will have a detrimental affect. He read the letter from Idaho Association of Realtors. The letter is also found in the record at the Planning and Building Department.

Jay Bailey 4199 Two Top Rd, Island Park, Id stated the Island Park Village Resort has been trying to revise the CC&R's. They have been waiting on the Commissioner's decision so they would not have anything in their covenants that go against the ordinance. He would applaud the cabin owners for their activities trying to provide guidance to their renters, but as a manager of the resort being responsible for the 3500 timeshare owners, very few follow the guidelines. He has received several phone calls because of issues they have had with renters in the resort. Of all the people who have come before the committee are those who are in compliance with the rules and regulations. You have not heard from those who do not or will not be willing to comply. As a resident of Island Park, he would hope they could put together a plan with the guidelines and restrictions that will help all of us. The renters do provide for the county a great deal and they do have to work together. Requirements do need to be put in place in those areas that are

not governed by management companies. These are the issues they need to address. The ordinance is needed but it does need to be tweaked a little.

Douglass Jackson 261 Oak Leaf Lane SLC, UT stated he owns a cabin in Island Park. He agrees with Laurie Augustine's comments. He tries to be a renter that takes good care of his property. He talks with the caretaker of Bill's Island. He feels the document is ambiguous. He has heard about all the problems that the renters cause. It is a generalization that is not fair. He talked about his neighbors who are owners. Is this really the format they want and is this a violation of rights?

Chan Atchley 4077 E 1400 N Ashton, Id stated he is speaking on behalf of Smart Growth Coalition and that many members talk about the problems with the rentals. This ordinance is about fairness and responsibility. It is very much about property rights. The property owners bought into a residential area and then it turns into commercial use. The rights of those owners are being violated. They need to be concerned about the health and safety of the renters and the owners. Eventually they will have a disaster that will make national news. There are environmental issues that are not addressed in the ordinance such as the problem with water pollution in Island Park and the river. Fishing is the #2 industry in the county second to farming and we must protect the river. Many of the rentals are overloading the sewage capacity. One of the real issues is for the taxes. RTC monies that are collected should be returned to the county, they should be getting back \$90,000 per year. He has talked with a lot of inn keepers in the county. Half of those are in Island Park. Inn Keepers are not being given the same advantage as the cabin owners and they pay fees and taxes that the cabin owners do not. So, how much of that money truly stays in the county. It is his opinion that a lot of that rental money goes directly to the out of town cabin owners. They need cabin rentals and in the long run they should be looking at a mixed use zone. In this ordinance there is the plan for and the proper parking, roadways and other things that are needed. Let's pass this ordinance as it is a good place to start. Over the years they can fix additional problems, and it will protect the natural resources of Fremont County.

Judy Atchley 4077 E 1400 N Ashton, Id stated she is reading the written statement on behalf of Mark Harbaugh and Dede Draper. She read his statement into the county record and a copy of it is available for viewing at the Planning and Zoning Department.

Brad Larson 1716 W Idaho Falls, Id stated he is concerned about the regulations and the fees as well as what it is going to do to the value of the real estate.

Ron Larson 3857 Lakeside Dr Island Park, Id stated he runs lakeside lodge and is glad they are trying to establish another ordinance. The county needs to enforce some sort of regulation. He runs the lodge as well as other rental cabins and he collects sales tax on each of them. He also charges a 2% innkeepers fee that goes directly back into the county. He has heard a lot about revenues that are made as a result of renting cabins. They are needed, but they need to pay their fair share. As a business, he has to follow the rules just to stay legal, and everyone should be expected to pay same dues. There were no shortages of people visiting Island Park even with the high gas prices. They had a

great year. He paid taxes and fees and all that money stayed in the county. Some people have bought cabins and rent them to be able to afford to have a home here without making the money to pay for it. There are also people who have seen this as a commercial business opportunity and are making money. These businesses fly above the radar and struggle with paying the fees and taxes and having to get a Class II permit even though they could do what the cabin renters do. It should be done apples to apples. It is unfortunate that this could make some people get out of the market. He does like the ordinance even though it could use a little work. He is concerned with how this is going to be enforced. The fees should be a one time deal.

Bill Stoltz Island Park, Id referred to a letter he sent to the county back in May of 2007. He has lived here for 20 years and he owns a rental cabin. He gave the history of how he got into the rental business. The fee is assessed from any other fee and is an annual fee. That relates to the sin tax. He is not opposed to a fee or an annual renewal, but it should be fair. The other concern is for shot gun administration meaning they do not want to deal with the specific problem; they just are shooting at everyone and hope the people in the wrong will get hit. The first paragraph should be looked at because it says Fremont County supports business in the county. They are paying all their taxes and he would contest that they are an illegal operation. He is also concerned with the hearing process, as it will be a tremendous workload for the P&Z. It is a procedural process, but will not change anything, just like the process of contesting property tax assessment. He has a problem with the fact that if there is a problem not taken care of, the permit will be revoked for a year. Instead of revoking the permit for a year, they should only revoke it until the problem is fixed. The other problem is that it has painted all cabins with the same brush. Does each cabin have to meet all of the rules and regulations and pay the same fee? Finally, why this county? It is not done anywhere else.

Wendell Winiger 196 Bill's Island, Island Park, Id stated he has watched the changes in Island Park and is concerned with government intervention. Money gets charged as a one time fee and government gets used to the money and it becomes a permanent tax. We are on a verge of an explosion in the Island Park area. He does not think that if a person wants to rent their cabin out, they should not be forced to be zoned commercial. The overflow from Jackson Hole and Driggs is coming here. The CP has some good things and there are fees that should not be there. Island Park has 200 registered voters and several thousand property owners that can not vote and do not have a voice except at these hearings. P&Z should look at sewer area up here and they should plan for the future of the area. Everyone is looking at dollars and taxes. District 7 Health District will take the money from you to put the system in but the county will not drain that system for you. It cost too much now and that should be looked at. They need to decide if they are going to make Island Park a destination or a drive through.

Bruce Beall Island Park stated he wanted to question the premise for this ordinance that says vacation rentals are a commercial use. He read the 2003 the Supreme Court ruling issued for the Pine Haven subdivision that renting these cabins does not violate the prohibition on commercial and business activity. He then questioned why the county is looking at the IBC and when was that adopted and by who? He stated they should have

given some background information on why they even need this. Why should we suddenly adopt something that does not make sense making all these people who were legal now illegal? If the IBC was not adopted, there would not be the problem and they should have adopted it in a modified way.

Mr. Hibbert read into the record several written comments from absent citizens. Kirk and Sherry Mund

Mr. Pinther questioned if they could just accept the written comments and not have to have them read into the record.

Mr. Hibbert stated that the problem is that they have not been accepted into the public record and the people at the public hearing need to have the right to hear the comments. He continued to read the comments.

Mr. Hibbert read the written statements from Mike Dunn, Larry Coe, and Del and Pam Thornock into the record. They are available to be read in full at the Fremont County Planning and Building Department

Mr. Mackert closed the public hearing.

Mr. Pinther stated a lot of people had their comments written and asked if they are turning those in as well.

Mr. Mackert stated that is not necessary as we have recorded it word for word.

MR. PINTHER MOTIONED TO CONTINUE THE DELIBERATION ON OCTOBER 27, 2008 IN THE FREMONT COUNTY ANNEX BUILDING AT 6:00 PM. MRS. MILLER SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

III. Adjourn

MR. KYNASTON MOTIONED TO ADJOURN AT 9:30PM. MR. POND SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.